

Application No. 10/748,649  
Response dated February 23, 2007  
Reply to Office Action of December 15, 2006

### **REMARKS/ARGUMENTS**

Claims 1, 3-17, and 22-23 are presented for the Examiner's consideration. Pursuant to 37 C.F.R. §1.111, reconsideration of the present application in view of the following remarks is respectfully requested.

Claims 1, 3-17 and 22-23 stand rejected under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Hermans et al., USPN 6,887,348.

The Examiner has admitted that the prior rejection under 35 U.S.C. §102(e) of pending claims 1 and 3-17 as anticipated by Hermans '348 is withdrawn in view of the prior amendment of claim 1. See page 4 of the Office Action dated 12/15/2006.

Pending claim 1 recites that the chemical additive applied to the web has a viscosity between about 1,000 cps to about 50,000 cps. While Hermans '348 discloses the application of polysiloxane to a web such as by spraying or by printing while the web is still wet after formation, Hermans '348 does not disclose the addition of a chemical additive having the claimed viscosity range. See column 12, lines 33-60. The claimed viscosity range enables the chemical additive to be applied by extruding it through a meltblown die. As such, the chemical additive can reside on the surface of the web in a plurality of substantially continuous fibers or filaments forming a network as claimed by claim 23. Such a resulting structure is different from the structure of a chemical applied by spraying or printing that results in discrete droplets of the applied chemical on the surface of the web. Since Hermans '348 does not disclose the claimed viscosity range, pending claim 1 is not anticipated.

With regard to the pending obviousness rejection of claims 1, 3-17, and 22-23 over Hermans '348, the pending patent application serial number 10/748,649 and USPN 6,887,348 were, at the time the invention of pending patent application serial number 10/748,649 was made, owned by Kimberly-Clark Worldwide, Inc. or under an obligation of assignment to Kimberly-Clark Worldwide, Inc. Since Hermans '348 is only available as

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prior art under 35 U.S.C §102(e), it is no longer available as prior art in the pending application for the basis of an obviousness rejection. See 35 U.S.C. §103(c) and MPEP §706.02(l)(2). As such Hermans '348 can not be used as prior art under 35 U.S.C. §103. The Examiner has failed to establish a proper *prima facie* obviousness rejection.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims, including the withdrawn claims, are in form for allowance. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at (920)721-7760.

Respectfully submitted,  
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